

SUMMARY OF EXAMINER INTERVIEW

Applicants' representatives would like to thank Examiner Brooks for conducting a telephonic interview on Thursday, May 28, 2009, to discuss the Restriction Requirement in general. In particular, Election 4 was discussed to clarify which claims were included in Election 4 as listed in the Restriction Requirement mailed on April 3, 2009.

After discussing the claims, it was agreed that Election 4 includes claims 125, 127, 153, and 155. Therefore, reference to Election 4 hereinafter represents the claims 125, 127, 153, and 155.

REMARKS

The Restriction Requirement mailed April 3, 2009, has been received and reviewed. Claims 113-168 were pending in the subject application. However, previous claims included two claims numbered as "155". The Office in the April 3, 2009, communication indicated that claims 155-168 would be renumbered as 156-169. Therefore, corrections to the claim numbering has been updated herein. As a result, claims 113-169 were pending in the present application.

Claims 115-117, 119-120, 122-124, 128-131, 135-140, 142-144, 147-148, 150-152, 156-159, 161-168 are withdrawn in response to the restriction requirement; accordingly, claims 113-114, 118, 121, 125, 127, 132, 141, 146, 149, 153, 155, 160, and 169 will be pending upon entry of this response. Reconsideration of the subject application is respectfully requested in view of the above listing of claims and the following remarks.

Rejections based on 35 U.S.C. § 121

The Office issued a restriction requirement under 35 U.S.C. 121, grouping the claims as follows:

Election 1: 115-117 and 142-144, three different quantitative evaluation components achieved by three different means;

Election 2: 119 and 147 or 120 and 148 two different options for a selected population;

Election 3: 122 and 150 or 123 and 151 or 124 and 152 different species of data source;

Election 4: 125, 127, 153, and 155 two different species of ranking;

Election 5: 128-129, 156, and 157 or 130-131, 158, and 159; and

Election 6: 139 or 135. Different ways to determine minimum entry score.

Additionally, the Office has indicated that claims 113-114, 118, 121, 132, 140-141, 146, 149, 160, and 168-169 are considered by the Office to be generic claims.

Applicants hereby elect the invention of Election 4, claims 125, 127, 153, and 155 as well as generic claims 113-114, 118, 121, 132, 141, 146, 149, 160, and 169 for prosecution on the merits. The claims 115-117, 119-120, 122-124, 128-131, 135-140, 142-144, 147-148, 150-152, 156-159, 161-168 have been withdrawn from consideration. No claims have been amended, added or canceled. However, Applicants reserve the right to continue prosecution of the remaining claims through one or more divisional applications.

CONCLUSION

Claims 113-114, 118, 121, 125, 127, 132, 141, 146, 149, 153, 155, 160, and 169 are believed to be in a condition for allowance. Therefore, Applicants respectfully request withdrawal of the pending restriction requirement and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned—by telephone at 816-474-6550 or via email at cwfisher@shb.com (such communication via email is herein expressly granted)—to resolve the same prior to issuing a subsequent action.

It is believed that no additional fee is due in conjunction with the present communication. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112, referencing attorney docket number NIKE.143744.

Respectfully submitted,

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